

DETAILED ACTION

Response to Amendment

Examiner acknowledges the reply filed 12/17/2007 in which claims 1, 5-6, 8, and 10 were amended with new claim 23 being added. Currently claims 1-6, 8-13 and 21-23 are pending for examination in this application.

Specification

The disclosure is objected to because of the following informalities: It is the Examiner's position that Applicant has invoked sixth paragraph, means-plus-function language to define Applicant's invention. Therefore the Examiner requires the Applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element. Please note that the MPEP clearly states, "Even if the disclosure implicitly sets forth the structure, materials, or acts corresponding to the means-(or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the PTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o)...". (Also see **MPEP 2181** (Rev. 1, Feb.2000))

Appropriate correction is required.

Claim Objections

Claims 1, 5, 8, 10, and 23 are objected to because of the following informalities: It is the Examiner's position that Applicant has evoked sixth paragraph, means-plus-

function language to define Applicant's invention. Therefore the Examiner has objected to the claims for the reasons set forth above in the objection to the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-6, and 8-13 rejected under 35 U.S.C. 102(b) as being anticipated by Belef (6,485,482). Belef discloses a rotational and translational drive coupling assembly for a catheter.

Regarding claims 1-2, 5-6, and 8-13, Belef discloses a method and apparatus for manipulating an flexible elongate member (16) during a medical procedure, wherein a base (12) with a stand (26) and a module (36) are coupled to the elongate member (16), a cylindrical means for movement (58, 60, 64) the method/device comprising: receiving input from a user to manipulate the elongate member (16) with a biasing mechanism and clip (Figure 3) in order to perform a medical procedure; sending signals to motors (84, 92) to advance and rotate the elongate member (16) (Figures 2A-2C) via coupled wheels (32, 34), wherein the module (36) comprises a first and second end, a first plane comprising a length and an axis extending along said length of the module, wherein the module (36) is coupled to the stand (26) at a first and second end permitting rotation of

the module substantially along said axis of the elongate member (Figures 1-4) (cols 1-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-4 are rejected under 35 U.S.C 103(a) as being unpatentable over Belef in view of Beyar (6,726,675). Belef meets the claim limitations as described above except for the specific pointing device.

However, Beyar teaches a remote control catheterization device.

Regarding claims 3-4, Beyar teaches a remote catheter (26) control mechanism (28, 30) which uses a computing system (34) with a pointing device (40) to control catheter movement (Figure 1-4).

At the time of the invention, it would have been obvious to add the computer and pointing device to the system of Belef in order to aid in user control and make the

system easier to control during a medical procedure. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Beyar (cols 1-4).

Claim Rejections - 35 USC § 103

Claims 21-22 are rejected under 35 U.S.C 103(a) as being unpatentable over Belef in view of Brock et al. (2002/0095175). Belef meets the claim limitations as described above except for specific mention of fine resolution control. However, Brock et al. teaches a flexible instrument controller.

Regarding claims 21-22, Brock et al. teaches a computer system that allows for more precise control over a remotely controlled medical tool with the aide of a computer system (abstract, Figures 1-6).

At the time of the invention, it would have been obvious to add the algorithms and computer programming of Brock et al. to the system of Belef to promote accurate and precise medical intervention. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Brock et al.

Allowable Subject Matter

Claims 6 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 12/17/2007 have been fully considered but they are not persuasive. Applicant's Representative argues that the references do not disclose one or more wheels in contact in the elongate member.

Examiner has fully considered applicant's arguments but they are not persuasive. It is examiners position that given a careful reading, the claims do not distinguish over the prior art of record.

Examiner asserts that the Belef reference discloses two or more wheels (60, 58) that are coupled to a motor (84) which contact the elongate member (18) through the translation drive element (36, 46).

The prior art of record teaches all elements as claimed and these elements satisfy all structural, functional, operational, and spatial limitations currently in the claims. Therefore the standing rejections are proper and maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 5:30am to 2:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date: 4/10/2008

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